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Reporting Category

Category	Subcategory	Situation	Victim/Offender Armed?	Weapon Types	Weapon Other	Weapon Recovered?	Deceased?
03P RACIAL PROFILING -	-	-	-	-	-	-	-
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Log No: 1088870 Type:CR

Accused Members

Review	Name	Status	Accused Overall Finding	Recommended Penalty	No. of Days	Date/Time Served	Created Date	Complimentary History
View	KELLY, BERNADETTE	CLOSED/FINAL	UNFOUNDED	-	-	-	23-MAR-2018	N/A
View	SKALSKI, MATTHEW	PENDING COMMAND CHANNEL REVIEW COMPLETE (C.O.P.A.)	SUSTAINED	SUSPENSION	2	-	23-MAR-2018	View

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Attachments

No.	Type	Related Person	No. of Pages	Narrative	Original in File	Entered By	Entered Date/Time	Status	Approve Content?	Approve Inclusion?	
View	1	FACE SHEET	N/A	-	-	BRATTA , MICHAEL	MAR-23-2018 14:04	-	-	-	
View	2	CONFLICT CERTIFICATION	N/A	-	-	HAYES, SHANNON	APR-11-2018 13:22	-	-	-	
View	3	CONFLICT CERTIFICATION	N/A	-	-	SCHAAF, GARRETT	APR-11-2018 15:29	-	-	-	
View	4	INITIATION REPORT	N/A	2	-	NO	BRATTA , MICHAEL	MAR-23-2018 16:45	APPROVED	-	YES
View	5	ALPHA/STAR QUERY SEARCH	N/A	1	[REDACTED]	NO	BRATTA , MICHAEL	MAR-26-2018 10:28	APPROVED	-	YES
View	6	ALPHA/STAR QUERY SEARCH	N/A	1	[REDACTED]	NO	BRATTA , MICHAEL	MAR-26-2018 10:27	APPROVED	-	YES
View	7	ATTENDANCE AND ASSIGNMENT RECORD	N/A	5	March 21, 2018 - 007 - [REDACTED] Watch	NO	BRATTA , MICHAEL	MAR-26-2018 10:29	APPROVED	-	YES
View	8	CONSENT FOR AUDIO RECORDED INTERVIEW	N/A	1	[REDACTED]	NO	BRATTA , MICHAEL	MAR-27-2018 11:58	APPROVED	-	YES
View	9	REPORT (OTHER)	N/A	1	COPA Notice - [REDACTED]	NO	BRATTA , MICHAEL	MAR-27-2018 11:58	APPROVED	-	YES
View	10	COMPLAINANT STATEMENT	N/A	1	[REDACTED] - occurred March 27, 2018.	NO	BRATTA , MICHAEL	MAR-27-2018 11:51	APPROVED	-	YES
View	11	SWORN AFFIDAVIT FROM COMPLAINANT	N/A	1	[REDACTED]	NO	BRATTA , MICHAEL	MAR-27-2018 11:58	APPROVED	-	YES
View	12	PHOTO IDENTIFICATION	N/A	1	ID - [REDACTED]	NO	BRATTA , MICHAEL	MAR-27-2018 12:00	APPROVED	-	YES
View	13	CONTACT CARD	N/A	1	ISR Receipt - [REDACTED]	NO	BRATTA , MICHAEL	MAR-27-2018 11:59	APPROVED	-	YES

View	14	CONTACT CARD	N/A	2	[REDACTED]	NO	BRATTA , MICHAEL	MAR-23- 2018 16:46	APPROVED -	YES
View	15	OEMC EVENT QUERY	N/A	1	[REDACTED]	NO	BRATTA , MICHAEL	MAR-26- 2018 10:50	APPROVED -	YES
View	16	REPORT (OTHER)	N/A	1	BWC/ICC Request	NO	BRATTA , MICHAEL	MAR-26- 2018 10:30	APPROVED -	YES
View	17	REPORT (OTHER)	N/A	1	BWC/ICC - only 2 files related. On disc in hard file.	NO	OLVERA, MARIA	APR-02- 2018 15:25	APPROVED -	YES
View	18	TO/FROM REPORT	N/A	1	Summary of BWC Footage	NO	OLVERA, MARIA	APR-02- 2018 15:25	APPROVED -	YES
View	19	ARREST HISTORY	N/A	2	[REDACTED]	NO	BRATTA , MICHAEL	MAR-26- 2018 10:39	APPROVED -	YES
View	20	REQUEST FOR INTERVIEW/STATEMENT/REPORT	N/A	1	Accused - [REDACTED]	YES	SCHAAF, GARRETT	MAY-04- 2018 15:58	APPROVED -	YES
View	21	REQUEST FOR INTERVIEW/STATEMENT/REPORT	N/A	1	Accused - [REDACTED]	YES	SCHAAF, GARRETT	MAY-10- 2018 09:43	APPROVED -	YES
View	22	NOTIFICATION OF CHARGES/ALLEGATIONS	N/A	1	Served to [REDACTED] on May 15, 2018.	YES	SCHAAF, GARRETT	MAY-15- 2018 14:55	APPROVED -	YES
View	23	ADMINISTRATIVE PROCEEDINGS RIGHTS	N/A	1	Served to [REDACTED] on May 15, 2018.	YES	SCHAAF, GARRETT	MAY-15- 2018 14:55	APPROVED -	YES
View	24	WAIVER OF COUNSEL/REQUEST TO SECURE COUNSEL	N/A	1	Request for counsel from [REDACTED] on May 15, 2018.	YES	SCHAAF, GARRETT	MAY-15- 2018 14:56	APPROVED -	YES
View	25	INTERVIEW - ACCUSED	N/A	1	[REDACTED] occurred May 15, 2018.	YES	SCHAAF, GARRETT	MAY-15- 2018 14:56	APPROVED -	YES
View	26	NOTIFICATION OF CHARGES/ALLEGATIONS	N/A	1	Served to [REDACTED] on June 20, 2018.	YES	SCHAAF, GARRETT	JUN-20- 2018 15:01	APPROVED -	YES
View	27	ADMINISTRATIVE PROCEEDINGS RIGHTS	N/A	1	Served to [REDACTED] on June 20, 2018.	YES	SCHAAF, GARRETT	JUN-20- 2018 15:01	APPROVED -	YES
View	28	WAIVER OF COUNSEL/REQUEST TO SECURE COUNSEL	N/A	1	Request for counsel from [REDACTED] on June 20, 2018.	YES	SCHAAF, GARRETT	JUN-20- 2018 15:02	APPROVED -	YES
View	29	INTERVIEW - ACCUSED	N/A	1	[REDACTED] - occurred June 20, 2018.	YES	SCHAAF, GARRETT	JUN-20- 2018 15:02	APPROVED -	YES
View	30	DEPARTMENT DIRECTIVE OR GENERAL ORDER	N/A	4	General Order - G06-01-02 - Restraining Arrestees - effective December 8, 2017.	YES	SCHAAF, GARRETT	JUN-21- 2018 09:49	APPROVED -	YES
View	31	DEPARTMENT DIRECTIVE OR GENERAL ORDER	N/A	15	Special Order: S04-13-19 - Investigatory Stop System - effective July 10, 2017.	YES	SCHAAF, GARRETT	JUN-21- 2018 09:50	APPROVED -	YES
View	-	DISCIPLINARY HISTORY	N/A	2	PO Skalski	-	HAYES, SHANNON	OCT-18- 2018 16:24	APPROVED -	YES
View	-	SUMMARY REPORT	N/A	6	-	NO	JACKSON, SHARDAY	OCT-18- 2018 16:12	APPROVED -	YES
View	-	REPORT (OTHER)	N/A	3	DNC letter	NO			APPROVED -	YES

CONNOLLY, DEC-18-
LUKE
2018
12:53

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Internal Use Only

No Internal Use Only attachments available.

Print Accused Appeal Forms

No Accused Appeal forms available for this Log No.

Related Incidents

☒ **TIP** Related Incidents listed below are for reference only. These may be viewed using the related application search screens.

No Related Incidents associated with this Log No.

Status History

☒ **TIP** Every employee included in the Status History is subject to be called for legal or administrative proceedings.

Resulting Status	Status Date/Time	Created By	Position	Employee No.	Assigned/ Detailed Unit	Comments
PENDING COMMAND CHANNEL REVIEW COMPLETE (C.O.P.A.)	18-DEC-2018 12:53	CONNOLLY, LUKE	SERGEANT OF POLICE		121 / -	-
PENDING ADVOCATE REVIEW	18-DEC-2018 12:50	CONNOLLY, LUKE	SERGEANT OF POLICE		121 / -	Upload DNC letter
PENDING SUPERINTENDENT DECISION	15-NOV-2018 13:52	DOUGLAS SR, VARRICK	COMMANDER		212 / -	-
PENDING COMMAND CHANNEL REVIEW	14-NOV-2018 07:58	COSTELLO, ROBERT	SERGEANT OF POLICE		121 / -	-
PENDING ADVOCATE REVIEW	14-NOV-2018 07:57	COSTELLO, ROBERT	SERGEANT OF POLICE		121 / -	-
PENDING REVIEW INCIDENT (I.A.D./DISTRICT USE)	14-NOV-2018 07:55	COSTELLO, ROBERT	SERGEANT OF POLICE		121 / -	-
PENDING COMMAND CHANNEL REVIEW	30-OCT-2018 16:32	COSTELLO, ROBERT	SERGEANT OF POLICE		121 / -	-
PENDING ADVOCATE REVIEW	29-OCT-2018 14:51	POWELL WARD, DINA	POLICE OFFICER		002 / 121	-
PENDING REVIEW INCIDENT (I.A.D./DISTRICT USE)	29-OCT-2018 11:52	DOMAIN, ALEXANDRA	SUPERVISOR PARALEGAL		113 / -	-
CLOSED AT C.O.P.A.	29-OCT-2018 11:51	DOMAIN, ALEXANDRA	SUPERVISOR PARALEGAL		113 / -	-
PENDING REVIEW INCIDENT (C.O.P.A. USE ONLY)	26-OCT-2018 09:53	HEARTS-GLASS, ANGELA	DEPUTY CHIEF ADMINISTRATOR		113 / -	-
PENDING C.O.P.A. COORDINATOR REVIEW	18-OCT-2018 16:13	JACKSON, SHARDAY	SUPERVISING INV COPA		113 / -	-
PENDING INVESTIGATIVE REVIEW	21-JUN-2018 10:17	SCHAAF, GARRETT	INVESTIGATOR 3 COPA		113 / -	-
PENDING INVESTIGATION	04-MAY-2018 13:38	HAYES, SHANNON	SUPERVISING INV COPA		113 / -	-
PENDING INVESTIGATIVE REVIEW	13-APR-2018 09:48	SCHAAF, GARRETT	INVESTIGATOR 3 COPA		113 / -	-
PENDING INVESTIGATION	11-APR-2018 13:22	HAYES, SHANNON	SUPERVISING INV COPA		113 / -	-
PENDING ASSIGN INVESTIGATOR	03-APR-2018 07:52	OLVERA, MARIA	SUPERVISING INV COPA		113 / -	Type Changed from INFO to CR on 03-APR-2018 07:52 by OLVERA, MARIA Affidavit information for this Log Number has changed on 03-APR-2018 07:52 by OLVERA, MARIA
PENDING ASSIGN TEAM	27-MAR-2018 12:52	PFEIFER, ADAM	SUPERVISING INV COPA		113 / -	-
PENDING SUPERVISOR REVIEW	27-MAR-2018 12:07	BRATTA , MICHAEL	INVESTIGATOR		113 / -	-
PRELIMINARY	27-MAR-2018 11:50	OLVERA, MARIA	SUPERVISING INV COPA		113 / -	-
PENDING ASSIGN TEAM	26-MAR-2018 11:54	OLVERA, MARIA	SUPERVISING INV COPA		113 / -	-
PENDING SUPERVISOR REVIEW	26-MAR-2018 10:54	BRATTA , MICHAEL	INVESTIGATOR		113 / -	-
PRELIMINARY	23-MAR-2018 14:04	BRATTA , MICHAEL	INVESTIGATOR		113 / -	-

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Command Channel Reviewers

Accused Name	Sequence No.	Reviewer
SKALSKI, MATTHEW	1	DOUGLAS SR, VARRICK
KELLY, BERNADETTE	1	DOUGLAS SR, VARRICK

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User: [REDACTED]
Module: 15280 \$Revision: 1.254 \$

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SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 21, 2018
Time of Incident:	6:00 pm
Location of Incident:	5531 S. Elizabeth Street, Chicago, IL 60636
Date of COPA Notification:	March 23, 2018
Time of COPA Notification:	2:04 pm

The complainant, Mr. [REDACTED], was sitting on the porch of an abandoned residence when Chicago Police Officers Bernadette Kelly and Matthew Skalski (collectively "the Officers") approached him and inquired if he had identification. [REDACTED] responded by removing his gloves, standing up, walking towards the Officers, and reaching into his pocket while verbally expressing his displeasure with being stopped. The Officers ordered [REDACTED] to stop, but he did not. Officer Skalski conducted a search of [REDACTED], which resulted in the recovery of two knives. [REDACTED] detention was brief and lasted no more than ten minutes. He was provided an Investigatory Stop Receipt and released. [REDACTED] later made a complaint to COPA about the incident.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer Bernadette Kelly Star #7186 / Employee ID# [REDACTED] Appointed [REDACTED], 2011 Unit [REDACTED] Born [REDACTED], 1982 Female / White
Involved Officer #2:	Police Officer Matthew Skalski Star #16752 / Employee ID# [REDACTED] Appointed [REDACTED], 2015 Unit [REDACTED] Born [REDACTED], 1989 Male / White
Subject #1:	[REDACTED] Born July 2, 1958 Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Bernadette Kelly	1. Unlawfully detained Mr. [REDACTED], in violation of Rule 1.	Unfounded
	2. Unlawfully searched Mr. [REDACTED], in violation of Rule 1.	Unfounded
Officer Matthew Skalski	1. Unlawfully detained Mr. [REDACTED], in violation of Rule 1.	Unfounded
	2. Unlawfully searched Mr. [REDACTED], in violation of Rule 6.	Sustained / 2 days

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Prohibits violation of any law or ordinance.
2. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

General Orders

1. General Order: G06-01-02 – Restraining Arrestees – effective December 8, 2017.

Special Orders

1. Special Order: S04-13-019 – Investigatory Stop System – effective July 10, 2017.

United States Constitutional Provisions

1. United States Constitution, Amendment IV

V. INVESTIGATION

a. Interviews

In a **statement to COPA**,¹ on March 27, 2018, **Mr. [REDACTED]** made the allegations detailed above. Additionally, [REDACTED] admitted that he knew the residence was abandoned, that the residence was not his, and that he was armed with two knives.

In a **statement to COPA**,² on May 15, 2018, **Accused Officer Bernadette Kelly**, stated that her partner, Officer Matthew Skalski, and she were patrolling the area of S. Elizabeth Street,

¹ Att. 10.

² Att. 25.

when they observed a black male (██████████) sitting on the porch of a boarded-up residence. Believing ██████████ was trespassing, the Officers approached ██████████ to determine why he was on the porch. ██████████ told the Officers that he did not live at the residence but was permitted to sit on the porch because he pays taxes. Officer Kelly requested ██████████ accompany the officers to their vehicle so they could do a name check. While at the vehicle, Officer Kelly recalled Officer Skalski recovering a knife from ██████████ left side. Officer Kelly was not certain when Officer Skalski first observed the knife. The officers asked ██████████ if he had any additional weapons. ██████████ began to reach for a second knife while stating that he was armed. Officer Kelly then put handcuffs on ██████████ to prevent him from reaching for the knife. Once ██████████ was secured, Officer Kelly completed a name check, determined that no owner of the property could be identified, provided ██████████ with an investigatory stop receipt, and informed Matthews that he was free to leave.

In a **statement to COPA**,³ on June 20, 2018, **Accused Officer Matthew Skalski**, stated essentially the same information as Officer Kelly. Officer Skalski explained that he conducted a protective pat down of ██████████ because he observed a knife in Matthews' rear right pocket when ██████████ placed his hand on the CPD vehicle. Officer Skalski admitted that he initially completed a protective pat down search of ██████████, but that he exceeded the scope the protective pat down and subjected ██████████ to a custodial search. Officer Skalski explained that he understands a custodial search is permitted when a subject is placed in custody or a member develops reasonable suspicion that the subject is in possession of contraband – specifically narcotics-related contraband. Officer Skalski was clear that ██████████ was not in custody but said that he reasonably suspected ██████████ to be in possession of narcotics-related contraband. Additionally, after reviewing ██████████ Investigatory Stop Report (ISR), Officer Skalski admitted that he reported that ██████████ was only subjected to a protective pat down. Skalski, explained that this was an inadvertent error. Further, Officer Skalski, explained that he should have used the word “search” instead of “protective pat down” in the narrative section of ██████████ ISR. Finally, Officer Skalski certain that Officer Kelly did not assist in any search of ██████████.

b. Digital Evidence⁴

Body Worn Camera (BWC) footage,⁵ depicts essentially the same information provided by Officers Kelly and Skalski. Additionally, the footage clearly shows that ██████████ was sitting on the porch of a boarded-up residence and that Officer Kelly does not search ██████████ at all. Further, as ██████████ is placed in handcuffs, Officer Kelly tells ██████████ he is not under arrest and is only being placed in handcuffs for officer safety reasons.

c. Documentary Evidence

³ Att. 29.

⁴ CPD provided two files of In-Car Camera footage, however neither is related to this incident.

⁵ Att. 17.

Investigatory Stop Report [REDACTED],⁶ details the essentially same information provided by Officers Kelly and Skalski and depicted on the BWC footage.⁷

[REDACTED] **Investigatory Stop Receipt**,⁸ details that the Officers stopped [REDACTED]s because of his proximity to the location of a reported crime, gang/narcotic enforcement, and sitting on abandoned property. Both Officers' names were listed on the receipt.

VI. ANALYSIS

COPA recommends a finding of **Unfounded** for the allegations that the Officers unlawfully detained [REDACTED]. In Illinois, criminal trespass to real property occurs when a person “knowingly and without lawful authority enters or remains within or *on* a building.”⁹ Additionally, Peace Officers are permitted to stop and detain subjects for a reasonable amount of time if the officer reasonably infers, from all the circumstances known to the officer, that the subject is about to commit, is committing, or has committed a criminal offense and must last no longer than necessary to determine if a criminal offense has occurred.¹⁰ This stop is known as an Investigatory Stop. A police officer may detain an individual when the “officer has probable cause to believe a person committed even a minor crime in his presence . . . the arrest is constitutionally reasonable.” *Virginia v. Moore*, 553 U.S. 164, 171 (2008).

Here, it is undisputed that [REDACTED] was sitting on the porch of a clearly abandoned residence that was not his. [REDACTED] presence on the porch prompted the Officers to reasonably infer that [REDACTED] was possibly trespassing and permitted his detention to determine if he was engaged in criminal activity. Therefore, COPA determined the detention of [REDACTED] was lawful and proper.

COPA recommends a finding of **Unfounded** for the allegation that Officer Kelly unlawfully searched [REDACTED]. Officers Kelly and Skalski and the BWC were clear that Officer Kelly did not search [REDACTED]. Therefore, COPA determined Officer Kelly did not search [REDACTED].

COPA recommends a finding of **Sustained** for the allegation that Officer Skalski unlawfully searched [REDACTED]. A subject who is lawfully detained for an Investigatory Stop is subjected to a limited search (a protective pat down) for weapons if an officer reasonably suspects, based on all the circumstances, that the subject may be armed or a danger of attack.¹¹ Further, if during the limited search the officer discovers a weapon, it may be seized until the end of the detention.¹² S04-13-09(II)B defines a protective pat down as “a limited search . . . of the outer clothing of a person for weapons for the protection of the . . . member....” Additionally, S04-13-09(II)B explains that “[i]f, during a [p]rotective [p]at [d]own . . . [a] member touches an object

⁶ Att. 14.

⁷ The Investigatory Stop Report incorrectly refers to the search as a pat down, which COPA attributes to a minor error and did not address via allegations.

⁸ Att. 12.

⁹ 720 ILCS 5/21-3(a)(1) (emphasis added.)

¹⁰ *Terry v. Ohio*, 932 U.S. 1 (1986); codified in 725 ILCS 5/107-14.

¹¹ *Knowles v. Iowa*, 525 U.S. 113, 118 (1998) codified in 725 ILCS 5/108-1.01.

¹² *Id.*

which the ... member reasonably believes is a weapon, the ... member may ... retrieve the object.” Further, S04-13-09(II)B is clear that a “[p]rotective [p]at [d]own is not a general exploratory search for evidence of criminal activity.” However, while an officer may conduct a pat down for weapons to ensure his own safety, “no amount of probable cause can justify a warrantless search or seizure absent exigent circumstances” or an arrest.¹³ Finally, G06-01-02(IV)A in part defines custodial search as “a warrantless search of a person under arrest....”

Here, [REDACTED] was lawfully detained for an Investigatory Stop but was not under arrest. When [REDACTED] placed his hands on the CPD vehicle as directed, Officer Skalski observed a knife in [REDACTED] right rear pocket. Based on his observations, Officer Skalski realized [REDACTED] was armed and conducted a protective pat down of [REDACTED]. However, Officer Skalski admitted that he exceeded the limited scope search of [REDACTED] outer clothing and began an exploratory search for evidence of criminal activity – specifically narcotics contraband. Officer Skalski did not deny that he completed a custodial search of [REDACTED] and explained that he was actively looking for contraband. Based on Officer Skalski’s statement and the BWC footage, COPA determined that Officer Skalski was aware that [REDACTED] armed when Officer Skalski began his protective pat down; therefore, the decision to complete the protective pat down was proper. Additionally, COPA determined, based on Officer Skalski’s own admission and the BWC footage, that it is more likely than not that Officer Skalski’s search of [REDACTED] exceeded the limits of a protective pat down and was in fact a custodial search. Therefore, Officer Skalski’s search of [REDACTED] exceed the limits imposed by S04-13-09(II)B and the 4th Amendment to the United States Constitution and was improper and in violation of Department Orders.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Matthew Skalski

i. Complimentary and Disciplinary History

- 1. Complimentary:** 5 Honorable Mentions
- 2. Disciplinary:** 2 SPARs for preventable accidents in 2017

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 2: 2 Days**

Officer Skalski acknowledged that he exceeded the scope of his initial pat down search and accepted responsibility for his actions, which he attributed to inadvertent error. This search did not increase the length of [REDACTED] detention.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

¹³ *People b. Franklin*, 2016 IL App (1st) 140049, ¶ 24

Officer	Allegation	Finding / Recommendation
Officer Bernadette Kelly	1. Unlawfully detained Mr. [REDACTED], in violation of Rule 1.	Unfounded
	2. Unlawfully searched Mr. [REDACTED], in violation of Rule 1.	Unfounded
Officer Matthew Skalski	1. Unlawfully detained Mr. [REDACTED]s, in violation of Rule 1.	Unfounded
	2. Unlawfully searched Mr. [REDACTED], in violation of Rule 6.	Sustained / 2 Days

Approved: 

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 10-2-18
 Date
Appendix A

Assigned Investigative Staff

Squad#:	9
Investigator:	Garrett Schaaf
Supervising Investigator:	Shannon Hayes
Deputy Chief Administrator:	Angela Hearts-Glass
Attorney:	Scott Crouch